

WILLIAM K. HARRINGTON
United States Trustee for Region 2
U.S. Department of Justice
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014
(212) 510-0500
By: Andrea B. Schwartz, Trial Attorney

Hearing Date and Time:
August 19, 2014, at 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
In re	:	Chapter 7
	:	
KOLLEL MATEH EFRAIM, LLC,	:	Case No. 04-16410 (SMB)
	:	
Debtor.	:	
-----X		

DECLARATION OF ANDREA B. SCHWARTZ

I, Andrea B. Schwartz, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am a Trial Attorney for the United States Department of Justice, Office of the United States Trustee located at U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, NY 10014. I am a member of the bars of the States of New York, New Jersey and California, and the Commonwealth of Pennsylvania, and am admitted to practice law in the United States District Court for the Southern District of New York.

2. I make this declaration in support of the Objection of the United States Trustee to Application for Order to Retain Tarter, Krinsky & Drogin LLP ("TKD") as Second Substitute General Counsel to the Trustee.

3. As part of my duties as a Trial Attorney for the U.S. Trustee, I review and oversee certain aspects of the administration of Chapter 7 cases filed in this district. Presently, I am assigned to cases for which Robert L. Geltzer and Angela Tese-Milner are appointed as Chapter 7 trustees. I also am assigned to the case of Joseph Nathan Barnes, Case No. 13-10819 (SCC), for which Ian J. Gazes serves as the Chapter 11 trustee.

4. It is common practice for me to review, among other things, the applications for retention prepared by Mr. Geltzer and Ms. Tese-Milner, and to provide comments concerning issues of concern, such as issues regarding the adequacy of disclosure.

5. In accordance with this practice, and prior to the filing of the TKD Application, I requested that Mr. Geltzer include the following provision concerning changes to the proposed compensation arrangements in the TKD Application:

Prior to any increases in [Professional's] rates for any individual employed by [Professional] and providing services in these cases, [Professional] shall file a supplemental affidavit with the Court and provide ten business days' notice to the Debtors, the U.S. Trustee and any parties in interest that have filed a notice of appearance and request for notices. The supplemental affidavit shall explain the basis for the rate increases in accordance with Section 330(a)(3)(F) of the Bankruptcy Code. The U.S. Trustee retains all rights to object to any rate increase on all grounds, including, but not limited to, the reasonableness standard provided for in § 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to § 330 of the Bankruptcy Code.

6. This provision, and similar ones, have been included in many retention applications filed by trustees in this district and adopted by this Court. True and correct copies of orders containing these provisions are annexed hereto: as

- Exhibit A: “Order Approving Retention of General Counsel,” *In re Jacoby & Meyers – Bankruptcy LLP*, Case No. 14-10641 (SCC) (ECF No. 36) (Jill Mazer-Marino, Chapter 7 Trustee);
- Exhibit B: “Order Approving Employment of SilvermanAcampora LLP as Attorneys for the Trustee,” *In re Pavicic*, Case No. 12-14319 (SHL) (ECF No. 64) (Kenneth Silverman, Chapter 7 Trustee);
- Exhibit C: “Order Authorizing the Retention and Employment of Crowe Horwath LLP as Accountants to the Chapter 7 Trustee,” *In re Barbara Zeifer*, Case No. 13-12228 (MG) (ECF No. 64-2) (Yann Geron, Chapter 7 Trustee);
- Exhibit D: “Order Authorizing the Retention of Gazes LLC as Counsel for the Trustee,” *In re Joseph Nathan Barnes*, Case No. 13-10819 (SCC) (ECF No. 89) (Ian J. Gazes, Chapter 11 Trustee);
- Exhibit E: “Order Authorizing the Retention of Gary R. Lampert, C.P.A., as Accountant to the Trustee, *Nunc Pro Tunc*, to October 10, 2013, Pursuant to Section 327(a) of the Bankruptcy Code,” *In re C.P. Construction Corp.*, Case No. 09-17084 (REG) (ECF No. 37) (Angela Tese-Milner, Chapter 7 Trustee);
- Exhibit F: “Order Approving Employment of Lamonica Herbst & Maniscalco, LLP, as Attorneys for the Trustee,” *In re Alan D. Herman*, Case No. 14-11366 (SCC) (ECF No. 19) (Gregory Messer, Chapter 7 Trustee);
- Exhibit G: “Order Authorizing the Retention of the Law Firm of Tese & Milner Nunc Pro Tunc to April 27, 2012,” *In re Dr. Miles Galin*, Case No. 11-5121 (SMB) (ECF No. 115) (Angela Tese-Milner, Chapter 7 Trustee);
- Exhibit H: “Order Authorizing the Retention of the Law Firm of Tese & Milner, Nunc Pro Tunc to January 8, 2013”, *In re Michael Golding*, Case No. 12-14634 (RG) (ECF No. 40) (Angela Tese-Milner, Chapter 7 Trustee);
- Exhibit I: “Order Authorizing the Retention of the law firm of Eisner Amper LLP, *Nunc Pro Tunc* to March 20, 2009,

Pursuant to Section 327(a) of the Bankruptcy Code”), *In re Planet Pets, Inc.*, Case No. 09-11228 (JMP) (ECF No. 31) (Angela Tese- Milner, Chapter 7 Trustee); and

Exhibit J: “Order Authorizing the Retention of the Law Firm of Tese & Milner, *Nunc Pro Tunc* to March 15, 2013, Pursuant to Section 327(a) of the Bankruptcy Code”), *In Re Ehrlich*, Case No. 12-14597(ALG) (ECF No. 25) (Angela Tese- Milner, Chapter 7 Trustee).

Exhibit K: “Order Authorizing Retention of Tarter Krinsky & Drogin LLP as Counsel to the Trustee”), *Jaime A. Batista and Isabel M. Morel*, Case No. 14-10500 (SHL) (ECF No. 18) (Deborah J. Piazza, Chapter 7 Trustee).

Exhibit L: “Order Authorizing Interim Trustee to Retain Davis, Graber, Plotzker & Ward, LLP, as His Accountants”), *In re Technisphere Corp.*, Case No. 14-11953 (REG) (Albert Togut, Chapter 7 Trustee).

Exhibit M: “Order Authorizing Interim Trustee to Retain Togut, Segal & Segal, LLP as his Attorneys”), *In re Technisphere Corp.*, Case No. 14-11953 (REG) (Albert Togut, Chapter 7 Trustee).

7. Attached as Exhibit N is a true and correct transcript of the August 6, 2014 hearing in *In re Ikeda, Inc.*; Case No. 14-11229 (SCC).

8. The Chapter 7 Trustee declined to include the provision in his applications to retain professionals.

Dated: New York, New York
August 12, 2014

/s/ Andrea B. Schwartz
Andrea B. Schwartz